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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,575	08/05/2003	Trent West	81876-4095	5437

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WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

EXAMINER

MILLER, WILLIAM L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/633,575	Applicant(s) WEST, TRENT	
	Examiner William L. Miller	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-12 and 14-27 is/are rejected.
- 7) ☒ Claim(s) 2-6 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8-12, 14-20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lederrey (US#3242664).

3. Lederrey discloses a jewelry article comprising: an annular body 1 made of a hard material consisting essentially of a sintered tungsten carbide material and a metal (cobalt) binder (col. 1, lines 65-70), wherein the annular body has external surfaces 2, 4, and an outer side surface, each surface having a predetermined shape and polished to a grey mirror finish with the hard material being long wearing and virtually indestructible during normal use of the jewelry (see col. 5, lines 33-56).

4. Regarding claims 1, 9, and 19, the applicant is reminded method limitations, such as the external surface being ground to its predetermined shape, are given little patentable weight in an article claim as the patentability of a product does not depend on its method of production. See MPEP 2113.

5. Regarding claim 9, the at least one external surface is being viewed as surface 2, and the at least one additional external surface is being viewed as surface 4 which includes a polished finish inherently providing unique reflection characteristics to the article.

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6. Regarding claims 10-12, 14, and 15, portion 2 of the body defines a cavity being viewed as a slot which receives an insert 3, namely a watch glass. The insert is being viewed as a visually different "hard" material. The insert is retained in the cavity via a mechanical fit with the cooperation of element 12.

7. Regarding claim 16, the jewelry article is in the form of a bracelet as it is intended to be worn about the wrist, and the annular body has a "generally" circular configuration.

8. Regarding claim 17, the body includes design details such as the conical shape of surface 4.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7, 21, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lederrey.

11. Lederrey discloses the hard material is a sintered tungsten carbide. Lederrey does not recite any additional materials, other than the metal binder, included in the hard material.

Although Lederrey fails to specifically disclose the hard material contains at least 85 weight% tungsten carbide with a density of at least 13.3g/cm³, and the binder being 3-13 weight%, it would have been obvious to one of ordinary skill in the art to utilize 85 weight% tungsten carbide with a density of 13.3 g/cm³, and a binder of 3-13 weight%, as the optimization of

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proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Allowable Subject Matter

12. Claims 2-6 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to Iler et al. (US#3669695) have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

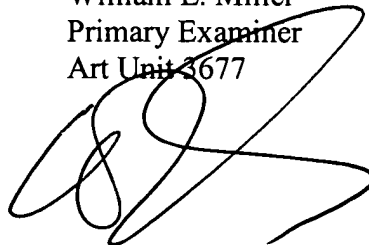
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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William L. Miller
Primary Examiner
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A handwritten signature in black ink, consisting of a large, stylized 'W' followed by a series of loops and a long horizontal stroke extending to the right.

WLM
09-28-2004